

THIS ISN'T KIDDY COURT

JUDGE JUDY SHEINDLIN

Judge Judy Sheindlin has been a New York City prosecutor of juvenile offenders and a family court judge. After being featured on "60 Minutes" as a tough judge, a television producer hired her to star in her own show in 1996.

When my son Adam was six years old, we lived in a typical suburban home. I was an attorney practicing in Manhattan Family Court. Adam was a beautiful but very precocious child, always looking for an angle or advantage. I used to think that when he grew up, I would be visiting him either at his palatial estate or once a month in some prison upstate.

After a long day of prosecuting delinquents, I pulled into my driveway to find Adam sitting with a box of caps and banging them with a rock to make them explode. Under my rigorous and relentless cross-examination, he finally confessed that he had ridden his bike to the corner store and stolen the caps. This was the test of my parenting; this could be his turning point.

I quickly put Adam in the car and drove to the store, where he sheepishly apologized for the theft. I told the storekeeper that if he ever saw him in the store alone again, to call the police and arrest him. Today, Adam is an assistant district attorney in New York and that story seems very, very old.

Or is it?

When I first confronted Adam with what he had done, he treated it as a game. Just like thousands of other kids who parade through our criminal

justice system today. Juvenile violence is skyrocketing across the nation and adults are largely to blame. I cannot tell you how many times I have seen delinquents walk out of our courtrooms, laughing at victims and at the non-punishments they receive. Laughing at the judge and laughing at the system.

The numbers are not funny: In 1979, there were an estimated 70,000 kids in juvenile institutions nationwide. In 1991 . . . the number rose to more than 90,000. In 1994, the Criminal Justice Institute estimated that 100,000 or more kids were in custody, in adult as well as juvenile facilities. In cities, suburbs and rural communities we see the same stories on television every night about youngsters breaking the law and winding up behind bars. We hear the same heart-wrenching stories from victims, the same cries of parents, educators and law enforcement officials: Where have we gone wrong, and how can we fix it?

Let's start with common sense. By failing to set strict limits for children—in the home, in the school and in society as a whole—we aggravate the very problems we're trying to solve. By winking at abuse, covering up criminal behavior or explaining it away, we have created a monstrous dilemma for law enforcement.

Most of us know that foster care programs nationwide have been a disaster, and by 1998, many of these kids will turn thirteen. As the products of dysfunctional homes, too many of them will undoubtedly enter our juvenile justice system. This might be our last chance to do something about their future, and our own safety. Here are a few suggestions:

1. HARD TIME IS GOOD. GOOD TIME IS A JOKE.

Convicted juveniles, like adult offenders, often gain early and undeserved release from jail. In my opinion, good time should be earned for productivity; it should not be a reward that accumulates just by stepping inside prison walls. Juveniles should qualify for early release only if they complete a course of academic or vocational studies. Let us reward those who do the right thing, but keep those who are not motivated behind bars for their full term.

Once, when I sat in Bronx Family Court in 1985, I reviewed the case of a fifteen-year-old boy who had three convictions to his credit, two of them violent. I was amazed when the case was called and he was led into court not only in handcuffs, but in leg irons as well. He stood about six foot three and must have weighed 280 pounds. The boy stood there with his mother, his attorney, the prosecutor and a representative of the state institution where he had been confined.

I read the file carefully and learned that this young man had been in four different facilities, none of which were able to contain his violent behavior. While the state had originally asked that he be confined for an additional twelve months, it had now changed its mind and wanted to release him. Why? I asked. The state's answer was simple and chilling. "We have done all we can for him, Your Honor, and he has exhausted our service," said the representative. I was dumbstruck. He had not only exhausted their services, but clearly had sapped their sanity. Then the young man's mother interrupted, saying, "I don't know what you're going to do with him if you let him go. But he ain't coming home with me!" I did what I believed was the only sane thing, and put him back in custody for another year. Maybe they could not help him, but at least we would know where he was. The idea that he would be out roaming the streets was unthinkable.

2. REWARD THE PRODUCTIVE, NOT THE UNPRODUCTIVE.

Taxpayers made it clear in the last election that they were no longer willing to support costly programs that have a long history of failure. Rehabilitation is a laudable goal, but when you spend millions and do not even come close to reaching that goal, it is time for a new broom. We have a special legacy¹ of failure when it comes to changing the lives of youthful offenders, and still the dollars—and the bodies of victims—pile up.

The fact is, we have been focusing on a small minority of the kids who come from poor, dysfunctional homes. The vast majority of these children suffer from neglected schools and streets, and yet do not commit crimes. Most kids struggle within these chaotic environments, with little or no support, and yet try to do the right thing. But we have ignored them. For years, our social and fiscal² emphasis has been on those few who break the law. We leave the good kids to fend for themselves.

A recent set of photographs in my local newspaper illustrated this crazy inversion³ of priorities. In one picture was a state-of-the-art gymnasium, with Nautilus equipment and gleaming free weights. It was part of the recreational complex at an upstate detention facility. The other photo was an overcrowded, deteriorated inner city junior high school. The paint peeling off the walls and broken windows were symbols of how little we value our law-abiding children.

1 legacy: something handed down

2 fiscal: related to financial matters

3 inversion: reversal

What kind of insanity is this? We should scale down our juvenile justice facilities and adult prisons to the bare minimum, offering offenders food, clothes and a bed, vocational and academic training. Period. Meanwhile, we should take the money we save from "dressing up" our detention facilities and spend it on the good kids who are struggling just to get by. We should let them know that we are doing this to invest in them and their communities, to show that we appreciate their struggle and want them to succeed. We should offer them part-time or after-school jobs. If society does not acknowledge their importance to our future, many more will fall prey to the mean streets.

3. FOR KIDS WHO HAVE A CHANCE, GROUP HOMES ARE THE ANSWER.

Sometimes, juveniles need more than a program to change their lives. A loving environment can work wonders. Many kids have to be removed from their communities, not because of the ferocity of their crimes, but because they come from dysfunctional homes. From what I have seen, no interventions will fix these parents—certainly not while their children are still children.

Consider the case of George, a fifteen-year-old boy who appeared in family court on his first offense. It was a nonviolent crime and did not appear to be serious. He accepted full responsibility for what he had done, and when I read the probation report describing his history and home life, my jaw dropped.

He had skipped school far more often than he attended, but the reason was heart-wrenching: His father was an abusive alcoholic who regularly beat his mother in their home. George knew that his father became particularly destructive after a drinking binge so he stayed home to protect his mother. She was unwilling to file charges, and George had become the family protector. Here was a young man who, through no fault of his own, had been entirely deprived of childhood. Now, he faced the prospect of being institutionalized. To keep him at home meant we would lose any chance to improve his life. He was doomed to become a dysfunctional, uneducated adult.

What we need for kids like George are small group homes. He was not a predator, he was a gentle and basically moral kid. What he required was a healthy environment. Given the state of our economy, many houses these days are cheap. If the state purchased a \$250,000 home to shelter four such kids—who lived there with in-house parents—these youngsters might have a decent shot. Obviously, we would screen these

caretakers carefully. We would want them to have an education and parenting skills. But think of the numbers: In one year, you would pay for the cost of the house, considering the \$75,000 tab to house an individual kid in a state facility. Even if you paid an additional \$5,000 per year for food, clothing and incidentals, you would be saving four lives—and a lot of money.

4. LET US PUT REALITY BACK INTO THE SYSTEM—STARTING WITH LANGUAGE.

The legislatures of each state should send a clear message that the priority of the juvenile justice system is protecting the citizenry. They could begin by improving their English.

In most states, the trial of a delinquency case has all the safeguards of an adult trial. Yet we muddy up the proceedings with a legal gibberish that does not say what it means. It is confusing to everyone—to police, judges, juveniles and, most of all, the public. In New York, for example, a juvenile is not accused of a crime. He is accused of “an act which, if committed by an adult, would be a crime.” A juvenile is not called a defendant, but a respondent. A prosecutor is not called a prosecutor, but a petitioner. A trial is called a fact-finding hearing. A sentencing is a dispositional hearing. And a conviction is not a conviction; it is a finding. Can we get some reality in here? If some punk bashes your head with a baseball bat, we should not call this an “incident.” We should call it what it is—a crime, a felony. Soupy language is stupid and diminishes the justice system.

We should also eliminate the rules of confidentiality affecting juveniles. Legislators fail to protect the public when they make it impossible for judges to know a young offender's full criminal history at the time of sentencing. They only protect a misguided sense of fairness. We have to abandon old arguments that we are stigmatizing⁴ youngsters by making their criminal records available for inspection, or by fingerprinting and photographing them. This is old-fashioned pandering,⁵ and juvenile crime stopped being old-fashioned years ago. Citizens have a right to know who is living next door. Do they want a teenage babysitter who also happens to be a convicted drug dealer or sex offender? You cannot make responsible judgements without good information, and that is true whether you are a judge or a neighbor.

⁴ stigmatizing: identifying in a negative manner

⁵ pandering: assisting others to persist in criminal acts

5. WE NEED A NATIONAL CURFEW.

Most lawbreaking by youngsters takes place at a time when these kids should be at home. If they were reasonably supervised by parents, this would not be a problem. But they are not, and since juvenile crime is skyrocketing, we need stronger protections. I recommend imposing a national curfew for kids under eighteen, and believe me, that is not as harsh as it sounds. When I was growing up, my parents set a curfew for me. On school nights it was nine P.M. and on weekends it was midnight. Maybe you had the same experience, or know someone who did. Either way, you learned to live with those rules. If the parents of today's children cannot or will not set similar limits, then society must do it for them, for their protection—and its own.

6. CCC—CAREER CRIMINAL CONTROL

Judges should have the option of imposing consecutive sentences on particularly violent juveniles, just as they do on adults. When it comes to kids who rape, maim and kill, their age quickly becomes unimportant.

For those juveniles who become second offenders, there should be the option of a fixed sentence followed by a conditional release until age twenty-five. I call this career criminal control for troublesome kids. The conditions for their release from custody would be simple: No arrests, full-time employment or school, and a weekly check-in with the local police precinct. You would *have* to be registered.

7. END PAROLE AND PROBATION—NOT JUST FOR KIDS, FOR EVERYONE.

In New York, the recidivism⁶ rate for juveniles is 75 percent, and the adult rate is close to that. What this tells me is that probation is not working, just as early release programs from prison—which we call parole—are not working. So let us have the courage to change. I am calling for the total elimination of probation and parole as we know it. In their place, probationers and parolees would be required to register at their local precinct and check in each week with a police officer. This would free up billions, and that money could be used to build more jails, to hire more police, to fight crime more intelligently. In time, the local precinct would come to know all the local lawbreakers, and you can imagine the sobering impact this new policy would have on offenders.

⁶ **recidivism:** a relapse into previous behavior (in this case, repeated criminal behavior)

Community policing is touted⁷ by many liberals as the wave of the future—and this would be the ultimate form of community policing. Let us give it a try. What do we have to lose?

8. NO MORE FREE LAWYERS, NO MORE FREE RIDES.

Too many people treat the juvenile justice system as a joke, especially the parents of kids who get a taxpayer-supported lawyer and lose little sleep over their children's lawbreaking. That would change overnight if we required them to pay for the attorneys who try to keep their kids out of jail. They should pay according to their means, even if it is a percentage of their welfare benefits. I would make them pay for the cost of incarceration as well. Raising children is a parent's responsibility, and if they have screwed up, taxpayers should not shoulder the entire burden. We have thousands of kids in state institutions, and most of them come from homes on public assistance. In too many states, the welfare keeps flowing while the kids are in jail. This is dumber than dumb. Let us not forget middle-class kids: Their parents claim them as tax deductions—even as the state pays for their upkeep in detention facilities. That, too, must end, and the parents must reimburse the state for housing their failures.

Finally, kids should pay for their crimes. Literally. Many communities have laws which permit judges to order financial restitution from delinquents, but few of them are used. I believe in mandatory juvenile restitution, nationwide. It could be funded from work programs when kids are in custody, or from special projects in the community. If you crack somebody's head open, you should pay a price in more ways than one. We are talking about responsibility: cause and effect, pleasure and pain, right and wrong, order and disorder. ∞

| 7 touted: highly praised